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State of Minnesota  
HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 1235

02/14/2017 Authored by Kresha and Davids  
The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance  
03/08/2017 Adoption of Report: Re-referred to the Committee on Taxes

1.1 A bill for an act  
1.2 relating to taxation; income; creating the investment in rural jobs tax credit;  
1.3 amending Minnesota Statutes 2016, sections 290.06, by adding a subdivision;  
1.4 297I.20, by adding a subdivision; proposing coding for new law in Minnesota  
1.5 Statutes, chapter 116J.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. 116J.8739 INVESTMENT IN RURAL JOBS TAX CREDIT.

1.8 Subdivision 1. Title. This section may be cited as the "Minnesota Rural Jobs Act."

1.9 Subd. 2. Definitions. (a) For the purposes of this section, the following terms have the  
1.10 meanings given.

1.11 (b) "Affiliate" means an entity that directly, or indirectly through one or more  
1.12 intermediaries, controls, is controlled by, or is under common control with another entity.  
1.13 For the purposes of this paragraph, an entity is controlled by another entity if the controlling  
1.14 person holds, directly or indirectly, the majority voting or ownership interest in the controlled  
1.15 person or has control over the day-to-day operations of the controlled person by contract  
1.16 or by law.

1.17 (c) "Closing date" means the date on which a rural growth fund has collected all of the  
1.18 amounts specified in subdivision 3, paragraph (g).

1.19 (d) "Commissioner" means the commissioner of employment and economic development.

1.20 (e) "Credit-eligible capital contribution" means an investment of cash in a rural growth  
1.21 fund by a person subject to tax under chapter 290 or 297I that:

2.1 (1) equals the amount specified on a tax credit certificate issued by the commissioner  
2.2 under subdivision 3, paragraph (f); and

2.3 (2) is either (i) an equity interest in a rural growth fund, or (ii) a purchase, at par value  
2.4 or premium, of a debt instrument issued by a rural growth fund that has a maturity date at  
2.5 least five years from the closing date.

2.6 (f) "Investment authority" means the amount stated on the notice issued under subdivision  
2.7 3, paragraph (f), certifying the rural growth fund.

2.8 (g) "Principal business operations" means the place or places where at least 60 percent  
2.9 of a business's employees work or where employees that are paid at least 60 percent of a  
2.10 business's payroll work. An out-of-state business that has agreed to relocate employees  
2.11 using the proceeds of a rural growth investment to establish its principal business operations  
2.12 in a rural area in Minnesota shall be deemed to have its principal business operations in this  
2.13 new location provided it satisfies this definition within 180 days after receiving the rural  
2.14 growth investment, unless the department agrees to a later date.

2.15 (h) "Rural area" means an area in Minnesota:

2.16 (1) excluding (i) the metropolitan area, as defined in section 473.121, subdivision 2, (ii)  
2.17 any area located in a city or town that has a population of more than 50,000 according to  
2.18 the latest decennial census of the United States, and (iii) any area in the urbanized area  
2.19 contiguous and adjacent to a city or town that has a population of more than 50,000  
2.20 inhabitants; or

2.21 (2) determined to be rural in character by the undersecretary of agriculture for rural  
2.22 development within the United States Department of Agriculture.

2.23 (i) "Rural business concern" means a business that, at the time of the initial investment  
2.24 in the company by a rural growth fund:

2.25 (1) has fewer than 250 employees and not more than \$15,000,000 in net income for the  
2.26 preceding taxable year;

2.27 (2) has its principal business operations located in one or more rural areas; and

2.28 (3) is engaged in industries related to manufacturing, plant sciences, services, or  
2.29 technology or, if not engaged in such industries, the commissioner makes a determination  
2.30 that the investment will be highly beneficial to the economic growth of the state.

3.1 (j) "Rural growth fund" means an entity certified by the commissioner under subdivision  
3.2 3, paragraph (f), and whose investment authority is comprised of at least 60 percent  
3.3 credit-eligible capital contributions.

3.4 (k) "Rural growth investment" means any capital or equity investment in a rural business  
3.5 concern or any loan to a rural business concern with a stated maturity at least one year after  
3.6 the date of issuance.

3.7 Subd. 3. **Application, certification, and allocation.** (a) Businesses may apply to the  
3.8 commissioner for certification as a rural growth fund. The application must be in the form  
3.9 and be made under the procedures specified by the commissioner, accompanied by an  
3.10 application fee of \$..... Application fees are deposited in the investment in rural jobs tax  
3.11 credit administration account which is established in the special revenue fund. The application  
3.12 for certification must be made available on the commissioner's Web site by August 1, 2017.

3.13 (b) Within 30 days of receiving an application for certification under this subdivision,  
3.14 the commissioner must either certify the applicant as satisfying the conditions required of  
3.15 a rural growth fund, request additional information from the business, or reject the application  
3.16 for certification. If the commissioner requests additional information from the applicant,  
3.17 the commissioner must either certify the applicant or reject the application within 30 days  
3.18 of receiving the additional information. If the commissioner neither certifies the business  
3.19 nor rejects the application within 30 days of receiving the original application or within 30  
3.20 days of receiving the additional information requested, whichever is later, then the application  
3.21 is deemed rejected, and the commissioner must refund the \$150 application fee. A business  
3.22 that applies for certification and is rejected may reapply.

3.23 (c) A business must include on its application:

3.24 (1) the total investment authority sought by the applicant under the business plan;

3.25 (2) documents and other evidence sufficient to prove, to the satisfaction of the  
3.26 commissioner, that the applicant or an affiliate of the applicant is: (i) licensed as a rural  
3.27 business investment company under United States Code, title 7, section 2009cc, or as a  
3.28 small business investment company under United States Code, title 15, section 681, and  
3.29 (ii) that as of the date the application is submitted, the applicant or affiliates of the applicant  
3.30 have invested at least \$100,000,000 in nonpublic companies located in rural areas;

3.31 (3) an estimate of the number of jobs that will be created or retained in this state as a  
3.32 result of the applicant's rural growth investments;

4.1 (4) a business plan that includes a revenue impact assessment projecting state and local  
4.2 tax revenue to be generated by the applicant's proposed rural growth investments prepared  
4.3 by a nationally recognized third-party independent economic forecasting firm using a  
4.4 dynamic economic forecasting model that analyzes the applicant's business plan over the  
4.5 ten years following the date the application is submitted to the commissioner; and

4.6 (5) a signed affidavit from each investor stating the amount of credit-eligible capital  
4.7 contributions each taxpayer commits to make.

4.8 (d) The commissioner must deny an application submitted under this section if any of  
4.9 the following are true:

4.10 (1) the application is incomplete or the application fee is not paid in full;

4.11 (2) the applicant does not satisfy all the criteria described in paragraph (c);

4.12 (3) the revenue impact assessment submitted under paragraph (c), clause (4), does not  
4.13 demonstrate that the applicant's business plan will result in a positive economic impact on  
4.14 this state over a ten-year period that exceeds the cumulative amount of tax credits that would  
4.15 be issued to the applicant's investors if the application were approved; or

4.16 (4) the credit-eligible capital contributions described in affidavits submitted under  
4.17 paragraph (c), clause (5), do not equal at least 60 percent of the total amount of investment  
4.18 authority sought under the applicant's business plan.

4.19 (e) The commissioner must not approve more than \$100,000,000 in investment authority  
4.20 and not more than \$60,000,000 in credit-eligible capital contributions under this section. If  
4.21 requests for investment authority exceed this limitation, the commissioner shall proportionally  
4.22 reduce the investment authority and the credit-eligible capital contributions for each approved  
4.23 application as necessary to avoid exceeding the limit.

4.24 (f) The commissioner shall not deny a rural growth fund application or reduce the  
4.25 requested investment authority for reasons other than those described in this subdivision.  
4.26 Upon approval of an application, the commissioner must:

4.27 (1) provide a written approval and certification to the applicant as a rural growth fund;

4.28 (2) specify the amount of the applicant's investment authority; and

4.29 (3) provide a tax credit certificate to each investor whose affidavit was included in the  
4.30 application specifying the amount of the investor's credit-eligible capital contribution.

4.31 (g) After receiving the approval issued under this subdivision, a rural growth fund must,  
4.32 within 60 days:

5.1 (1) collect the credit-eligible capital contributions from each taxpayer issued a tax credit  
 5.2 certificate under paragraph (f);

5.3 (2) collect one or more investments of cash that, when added to the contributions collected  
 5.4 under clause (1), equal the rural growth fund's investment authority; and

5.5 (3) send to the commissioner documentation sufficient to prove that the amounts described  
 5.6 in clauses (1) and (2) have been collected.

5.7 (h) At least ten percent of a rural growth fund's investment authority must be comprised  
 5.8 of equity investments contributed by affiliates of the rural growth fund, including employees,  
 5.9 officers, and directors of such affiliates.

5.10 (i) If the rural growth fund fails to fully comply with paragraphs (g) and (h), the rural  
 5.11 growth fund's approval lapses and the corresponding investment authority and credit-eligible  
 5.12 capital contributions under this subdivision will not count toward the limits on the program  
 5.13 size total investment authority and credit-eligible capital contributions under this section.

5.14 The commissioner shall first award lapsed investment authority pro rata to each rural growth  
 5.15 fund that was awarded less than the requested investment authority which a rural growth  
 5.16 fund may allocate to its investors in its discretion. Any remaining investment authority may  
 5.17 be awarded by the commissioner to new applicants.

5.18 Subd. 4. **Credit allowed.** A tax credit is allowed for taxpayers who make a credit-eligible  
 5.19 capital contribution to a rural growth fund and are issued a tax credit certificate under  
 5.20 subdivision 3. The credit may be claimed against the tax imposed under chapter 290 or  
 5.21 297I. The credit may not be sold, transferred, or allocated to any other entity other than an  
 5.22 affiliate subject to the tax imposed under chapter 290 or 297I.

5.23 Subd. 5. **Revocation; exit from program.** (a) The commissioner shall revoke a tax  
 5.24 credit certificate issued under this section if any of the following occur with respect to a  
 5.25 rural growth fund before it exits the program under paragraph (e):

5.26 (1) the rural growth fund does not invest 100 percent of its investment authority in rural  
 5.27 growth investments in this state within two years of the closing date with at least 25 percent  
 5.28 of its investment authority initially invested in rural business concerns engaged in  
 5.29 manufacturing;

5.30 (2) the rural growth fund fails to maintain rural growth investments equal to 100 percent  
 5.31 of its investment authority until the sixth anniversary of the closing date;

5.32 (3) the rural growth fund makes a distribution or payment that results in the rural growth  
 5.33 fund having less than 100 percent of its investment authority invested in rural growth

6.1 investments in this state or available for investment in rural growth investments and held  
6.2 in cash and other marketable securities;

6.3 (4) the rural growth fund invests more than 20 percent of its investment authority in the  
6.4 same rural business concern, including amounts invested in affiliates of the rural business  
6.5 concern, but excluding rural growth investments made with repaid or redeemed rural growth  
6.6 investments, or interest or profits realized from repaid or redeemed rural growth investments,  
6.7 from the rural business concern or an affiliate of the rural business concern; or

6.8 (5) the rural growth fund makes a rural growth investment in a rural business concern  
6.9 that directly, or indirectly through an affiliate, owns, has the right to acquire an ownership  
6.10 interest in, makes a loan to, or makes an investment in the rural growth fund, an affiliate of  
6.11 the rural growth fund, or an investor in the rural growth fund, not including investments in  
6.12 publicly traded securities by a rural business concern or an owner or affiliate of such concern.

6.13 (b) For purposes of this subdivision, a rural growth fund will not be considered an affiliate  
6.14 of a rural business concern solely as a result of its rural growth investment, and an investment  
6.15 is maintained even if the investment is sold or repaid so long as the rural growth fund  
6.16 reinvests an amount equal to the capital returned or recovered by the fund from the original  
6.17 investment, exclusive of any profits realized, in other rural growth investments in this state  
6.18 within 12 months of the receipt of such capital. Amounts received periodically by a rural  
6.19 growth fund shall be treated as continually invested in rural growth investments if the  
6.20 amounts are reinvested in one or more rural growth investments by the end of the following  
6.21 calendar year. A rural growth fund is not required to reinvest capital returned from rural  
6.22 growth investments after the fifth anniversary of the closing date, and such rural growth  
6.23 investments shall be considered held continuously by the rural growth fund through the  
6.24 sixth anniversary of the closing date.

6.25 (c) Before revoking one or more tax credit certificates under this subdivision, the  
6.26 commissioner shall notify the rural growth fund of the reasons for the revocation. The rural  
6.27 growth fund shall have 90 days from the date the notice was issued by the commissioner  
6.28 to correct any violation outlined in the notice to the satisfaction of the commissioner and  
6.29 avoid revocation of the tax credit certificate.

6.30 (d) If the commissioner revokes tax credit certificates under this section, the associated  
6.31 investment authority and credit-eligible capital contributions shall not count toward the  
6.32 limit on total investment authority and credit-eligible capital contributions described by  
6.33 subdivision 3, paragraph (e). The commissioner shall first award reverted authority pro rata  
6.34 to each rural growth fund that was awarded less than the requested investment authority

7.1 under subdivision 3, paragraph (e). The commissioner may award any remaining investment  
7.2 authority to new applicants.

7.3 (e) On or after the sixth anniversary of the closing date, a rural growth fund may apply  
7.4 to the commissioner to exit the program and no longer be subject to the provisions of this  
7.5 section. The commissioner must respond to an application to exit within 30 days of receiving  
7.6 the application. In evaluating the application, the fact that no tax credit certificates have  
7.7 been revoked, and that the rural growth fund has not received a notice of revocation that  
7.8 has not been cured, is sufficient evidence to prove that the rural growth fund is eligible for  
7.9 exit. The commissioner shall not unreasonably deny an application submitted under this  
7.10 subdivision. If the application is denied, the notice shall include the reasons for the  
7.11 determination.

7.12 (f) The commissioner shall not revoke a tax credit certificate after the rural growth fund's  
7.13 exit from the program.

7.14 Subd. 6. **Commissioner opinion on investment.** Before making a rural growth  
7.15 investment, a rural growth fund may request from the commissioner a written opinion as  
7.16 to whether the business in which it proposes to invest is a rural business concern. The  
7.17 commissioner, not later than the 15th business day after the date of receipt of the request,  
7.18 shall notify the rural growth fund of its determination. If the commissioner fails to notify  
7.19 the rural growth fund by the 15th business day of its determination, the business in which  
7.20 the rural growth fund proposes to invest shall be considered a rural business concern.

7.21 Subd. 7. **Reports to commissioner.** (a) Each rural growth fund shall submit a report to  
7.22 the commissioner on or before the fifth business day after the second anniversary of the  
7.23 closing date. The report shall provide documentation regarding the rural growth fund's rural  
7.24 growth investments and must include:

7.25 (1) a bank statement evidencing each rural growth investment;

7.26 (2) the name, location, and industry of each business receiving a rural growth investment,  
7.27 including either the opinion letter set forth in subdivision 6, or evidence that the business  
7.28 qualified as a rural business concern at the time the investment was made;

7.29 (3) the number of employment positions created or retained as a result of the rural growth  
7.30 fund's rural growth investments as of the last day of the preceding calendar year; and

7.31 (4) any other information required by the commissioner.

8.1 (b) On or before the last day of February of each year following the year in which the  
 8.2 report required under paragraph (a) is submitted, the rural growth fund shall submit an  
 8.3 annual report to the commissioner including the following:

8.4 (1) the number of employment positions created or retained as a result of the rural growth  
 8.5 fund's rural growth investments as of the last day of the preceding calendar year;

8.6 (2) the average annual salary of the positions described in paragraph (a), clause (3); and

8.7 (3) any other information required by the commissioner.

8.8 Subd. 8. **Appropriations.** Amounts in the investment in rural jobs tax credit  
 8.9 administration account in the special revenue fund are appropriated to the commissioner of  
 8.10 employment and economic development for costs associated with certifying applications  
 8.11 and refunding application fees as provided in this section, and for personnel and  
 8.12 administrative expenses related to administering the investment in rural jobs tax credit in  
 8.13 this section.

8.14 Subd. 9. **Rulemaking.** The commissioner shall adopt rules under chapter 14 necessary  
 8.15 to implement this section.

8.16 **EFFECTIVE DATE.** This section is effective the day following final enactment.

8.17 Sec. 2. Minnesota Statutes 2016, section 290.06, is amended by adding a subdivision to  
 8.18 read:

8.19 Subd. 37. **Investment in rural jobs tax credit.** (a) For purposes of this subdivision, the  
 8.20 terms defined in section 116J.8739 have the meanings given in that section.

8.21 (b) A taxpayer is allowed a credit against the tax imposed by this chapter for  
 8.22 credit-eligible capital contributions to a rural growth fund. The credit equals the amount  
 8.23 indicated on the certificate provided to the taxpayer under section 116J.8739. A taxpayer  
 8.24 may claim up to 25 percent of the credit authorized under this section for each of the taxable  
 8.25 years that includes the third through sixth anniversaries of the closing date, in addition to  
 8.26 credit amounts carried forward under paragraph (c).

8.27 (c) If the amount of the credit for a taxable year exceeds the taxpayer's liability for tax,  
 8.28 the excess is carried forward to ensuing taxable years until fully used.

8.29 (d) A taxpayer claiming a credit under this section shall submit a copy of the tax credit  
 8.30 certificate with the taxpayer's return for each taxable year for which the credit is claimed.

8.31 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December  
 8.32 31, 2017.

9.1 Sec. 3. Minnesota Statutes 2016, section 297I.20, is amended by adding a subdivision to  
9.2 read:

9.3 Subd. 4. **Investment in rural jobs tax credit.** (a) For purposes of this subdivision, the  
9.4 terms defined in section 116J.8739 have the meanings given in that section.

9.5 (b) An insurance company that makes a credit-eligible capital contribution to a rural  
9.6 growth fund and is issued a tax credit certificate under section 116J.8739 may claim a credit  
9.7 against the premiums and retaliatory taxes imposed under this chapter equal to the amount  
9.8 provided under section 116J.8739, subdivision 3. A taxpayer may claim up to 25 percent  
9.9 of the credit authorized under this section for each of the taxable years that includes the  
9.10 third through sixth anniversaries of the closing date, in addition to credit amounts carried  
9.11 forward under paragraph (c).

9.12 (c) If the amount of the credit for a taxable year exceeds the taxpayer's liability for tax,  
9.13 the excess is carried forward to ensuing taxable years until fully used.

9.14 (d) This credit does not affect the calculation of police and fire aid under section 69.021.

9.15 **EFFECTIVE DATE.** This section is effective the day following final enactment and  
9.16 applies to premium tax returns originally due on or after December 31, 2017.